

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BRIAN KEITH DANIELS,

Case No. 2:18-cv-00588-JAD-PAL

Plaintiff,

v.

**REPORT OF FINDINGS AND
RECOMMENDATION**

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, et al.,

Defendants.

This matter is before the court on Plaintiff Brian Keith Daniels' failure to comply with the court's Order (ECF No. 3). This proceeding is referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4 of the Local Rules of Practice.

Plaintiff filed an incomplete Application to Proceed *In Forma Pauperis* (ECF No. 1) on March 30, 2018. The court could not determine whether Plaintiff qualified to proceed *in forma pauperis* ("IFP"). On May 8, 2018, the court entered an Order (ECF No. 3) denying Plaintiff's IFP Application without prejudice, directing the Clerk's Office to mail Plaintiff a new IFP application, allowing Plaintiff to file a completed IFP application or pay the \$400.00 filing fee on or before June 7, 2018, and requiring Plaintiff to file an amended complaint submitted on the form provided by the court. *Id.* The Order warned Plaintiff that a failure to file a completed IFP application and amended complaint would result in a recommendation to the district judge that this case be dismissed. Plaintiff has not filed a completed IFP application, filed an amended complaint, requested an extension of time, or taken any other action to prosecute this case.

Accordingly,

IT IS RECOMMENDED that:

1. Plaintiff's Application to Proceed *In Forma Pauperis* (ECF No. 1) be DENIED and this action be DISMISSED without prejudice to the Plaintiff's ability to commence a

1 new action in which he either pays the appropriate filing fee in full or submits a
2 completed application to proceed *in forma pauperis*.

3 2. The Clerk of the Court be instructed to close this case and enter judgment accordingly.

4 DATED this 11th day of July, 2018.

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7 PEGGY A. LEEN
8 UNITED STATES MAGISTRATE JUDGE

9 **NOTICE**

10 This Report of Findings and Recommendation is submitted to the assigned district judge
11 pursuant to 28 U.S.C. § 636(b)(1) and is not immediately appealable to the Court of Appeals for
12 the Ninth Circuit. Any notice of appeal to the Ninth Circuit should not be filed until entry of the
13 district court's judgment. *See* Fed. R. App. Pro. 4(a)(1). Pursuant to LR IB 3-2(a) of the Local
14 Rules of Practice, any party wishing to object to a magistrate judge's findings and
15 recommendations of shall file and serve *specific written objections*, together with points and
16 authorities in support of those objections, within 14 days of the date of service. *See also* 28 U.S.C.
17 § 636(b)(1); Fed. R. Civ. Pro. 6, 72. The document should be captioned "Objections to Magistrate
18 Judge's Report of Findings and Recommendation," and it is subject to the page limitations found
19 in LR 7-3(b). The parties are advised that failure to file objections within the specified time may
20 result in the district court's acceptance of this Report of Findings and Recommendation without
21 further review. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). In addition,
22 failure to file timely objections to any factual determinations by a magistrate judge may be
23 considered a waiver of a party's right to appellate review of the findings of fact in an order or
24 judgment entered pursuant to the recommendation. *See Martinez v. Ylst*, 951 F.2d 1153, 1156 (9th
25 Cir. 1991); Fed. R. Civ. Pro. 72.